

EXHIBIT 5

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

Donna Curling, et al.,

Plaintiffs,

CIVIL ACTION FILE

vs.

NO. 1:17-cv-02989-AT

Brad Raffensberger, et
al.,

Defendants.

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VIDEO 30(b)(6) DEPOSITION OF  
SECRETARY OF STATE  
THROUGH  
ROBERT GABRIEL STERLING

October 12, 2022  
9:26 a.m.

Suite 3250, One Atlantic Center  
1201 W. Peachtree Street  
Atlanta, Georgia

S. Julie Friedman, CCR-B-1476

1 THE VIDEOGRAPHER: Good morning. We're  
2 going on the record at 9:26 a.m., November the  
3 12th, 2 -- October the 12th, 2022.

4 Please note that the microphones are  
5 sensitive and may pick up whispering and private  
6 conversations. Please mute your phones at this  
7 time.

8 Audio and video recording will continue to  
9 take place unless all parties agree to go off  
10 the record.

11 This is Media Unit 1 of recorded  
12 deposition of the Office of the Secretary of  
13 State, taken by the Plaintiff -- by counsel for  
14 the Plaintiff, In The Matter of Donna Curling,  
15 et al. versus Brad Raffensperger, et al., filed  
16 In United States District Court of the Northern  
17 District of Georgia, Atlanta Division, Case No.  
18 1:17-CV-2989-AT. The location of the deposition  
19 is Krevolin & Horst, LLC.

20 My name is Scott Bridwell, representing  
21 Veritext Legal Solutions. I am your  
22 videographer. The court reporter is Julie  
23 Friedman from the firm Veritext Legal Solutions.

24 I'm not authorized to administer an oath.  
25 I'm not related to any party in this action, nor

1 am I financially interested in the outcome.

2 If there are any objections to this  
3 proceeding, please state them at the time of  
4 your appearance.

5 Counsel, and all present, including  
6 remotely, will now state their appearance and  
7 affiliations for the record, beginning with the  
8 noticing attorney.

9 MR. CROSS: David Cross of Morrison &  
10 Foerster on the behalf of Curling Plaintiffs.

11 MR. BROWN: Bruce Brown on behalf of the  
12 Coalition Plaintiffs.

13 MR. SPARKS: Adam Sparks for the Curling  
14 Plaintiffs.

15 MR. KNAPP: Halsey Knapp on behalf of the  
16 Curling Plaintiffs.

17 MR. TYSON: Brian Tyson on behalf of the  
18 Secretary of State and the State Election Board.

19 MR. CROSS: I don't think we need to go  
20 through everyone on the Zoom.

21 THE VIDEOGRAPHER: We don't?

22 You all agree on that?

23 MR. TAYLOR: I agree. Yeah.

24 THE VIDEOGRAPHER: Okay. There we go. So  
25 we're not going to do the Zoom.

1 Will the court reporter please swear in  
2 the witness.

3 ROBERT GABRIEL STERLING, having been first  
4 duly sworn, was examined and testified as  
5 follows:

6 THE VIDEOGRAPHER: Counsel, you may  
7 proceed.

8 CROSS-EXAMINATION

9 BY MR. CROSS:

10 Q. Good morning, Mr. Sterling.

11 A. Good morning, Mr. Cross.

12 Q. So do you understand your testimony today  
13 as a representative of the Office of the Secretary of  
14 State for Georgia.

15 A. That's my understanding. Yes.

16 Q. And you understand that means that you're  
17 testifying to the knowledge the Secretary's Office  
18 has on a particular topic?

19 A. Yes.

20 Q. Okay. Let me go ahead and hand you the  
21 first exhibit, which is Tab 2, the notice.

22 If you could, share that with everybody  
23 else.

24 A. Is it the same thing here?

25 Q. Yeah.

1 Q. Right. Mr. --

2 A. On May of 2021, he was just wrong; and I  
3 said this interview, basically, everything in it is  
4 conflated and -- and just incorrect, and that's why I  
5 was so frustrated with the interview itself.

6 Q. Okay. So, remember, you're testifying  
7 today not as you --

8 A. Uh-huh.

9 Q. -- but as Secretary's Office --

10 A. Right.

11 Q. -- right?

12 Okay.

13 A. I was answering your question about what  
14 Mike Hassinger and I knew specifically about that.

15 Q. I -- I get that now.

16 A. Okay.

17 Q. So what I'm saying is, it is a fact that  
18 the Secretary's Office, multiple individuals, from  
19 Chris Harvey, to Michael Barnes, to Frances Watson,  
20 to Pamela Jones, to Josh Blanchard, all of those  
21 individuals were aware that the Secretary's Office  
22 was investigating potential unauthorized access by  
23 Cyber Ninjas to the Georgia voting system in Coffee  
24 County in May of 2021. Yes?

25 MR. TYSON: Object to form.

1 THE WITNESS: Yes. In the specific way  
2 you put that.

3 Now by this point, they're two separate  
4 things. Because at this point, it was like we  
5 now understand that with given the videotapes  
6 and everything. I can't remember the date of  
7 that.

8 But we really kicked it up into -- Okay.  
9 Once we saw that something had happened and that  
10 was in July, that was like a new -- Not new  
11 investigation; but, again a new phase of the  
12 investigation. That's what I was referring to  
13 as now we've -- we've real -- We've handed to  
14 GBI. We do those items, and that's kind of the  
15 difference between those things.

16 I mean, there is a -- obviously, a  
17 timeline, and we'll probably get into some of  
18 those things.

19 But that interview was just simply wrong.  
20 He was incorrect --

21 Q. (By Mr. Cross) Okay.

22 A. -- when he made those statements, and he  
23 didn't have a chance to get briefed up, because he  
24 was also surprised, because he wasn't supposed to  
25 be -- It was supposed to be a action feel good kind

1 What -- What's his role with respect to  
2 investigating the unauthorized access of the -- of  
3 the State's voting system in Coffee County?

4 A. He was an expert retained by our attorneys  
5 in this case. I'm not sure in other -- other cases  
6 or not.

7 And his portfolio in particular was get  
8 into this server and look at the log files and see  
9 what happened anywhere around this period of time.  
10 If -- If there was any devices done incorrectly.  
11 Was there anything where it looks odd. Did anything  
12 happen. Basically, go in and find out and tell us.

13 Q. It was the directive to him to make sure  
14 that he preserved the data on that original EMS  
15 server through his work?

16 A. As I understand it --

17 MR. TYSON: Oh --

18 THE WITNESS: -- yes.

19 MR. TYSON: -- okay.

20 THE WITNESS: Got to be faster next time.

21 Q. (By Mr. Cross) And what is it that --  
22 What can you share with me with respect to the  
23 Secretary's Office's knowledge about any analysis  
24 that's been done on that server and what's been  
25 found?



1 MR. TYSON: And I'll just caution you  
2 here, Mr. Sterling, for Mr. Persinger's work  
3 product, for attorney issues, and then anything  
4 related to the active investigation that's  
5 ongoing. I think you've already shared pretty  
6 much the details but --

7 THE WITNESS: And I can go over some of  
8 the specifics of it again. There was -- We  
9 know that was there was a device that was  
10 plugged in on January 7th.

11 Q. (By Mr. Cross) And that was a Samsung  
12 device?

13 A. We were hoping to keep that out for the  
14 investigatory side of it but -- And I know it's  
15 released to the public, so yes. It was a Samsung  
16 device, to my understanding.

17 Q. Is there anything more you can share about  
18 that device -- what it was, what was done with it?

19 A. Not that I think I'd be willing to right  
20 now under this investigation side, because, again  
21 we're trying to be able to question people and see if  
22 they know -- have actual knowledge or not, basically.

23 We also know the date of the password  
24 change was 10-14.

25 MR. TYSON: December.

1 his rationale behind it. I absolutely believe  
2 that you agree with that or believe that.

3 Q. (By Mr. Cross) So you mentioned the CISA  
4 process sort of strips away or it doesn't look at the  
5 processes and procedures, things like physical  
6 safeguards that are in place. It's looking at the  
7 software itself and saying are there software  
8 vulnerabilities, right?

9 A. And hardware, I think, I mean --

10 Q. Right.

11 A. -- 'cause you have to be able to do those  
12 things. Right.

13 Q. But I mean, we --

14 Isn't it a fact that we now know that  
15 the -- these other processes and procedures,  
16 including the physical safeguards that you're relying  
17 on in Georgia, that they're not adequate?

18 Doesn't the Coffee County breach, which  
19 spanned eight days and involved -- I don't know --  
20 somewhere north of half a dozen people, that those  
21 safeguards just don't work?

22 A. Well, Mr. Cross --

23 MR. TYSON: I'll object to form and object  
24 to scope.

25 Go ahead.

1 THE WITNESS: Mr. Cross to that point,  
2 when you have bad actors, it doesn't matter what  
3 your system is. They -- They're all  
4 exploitable at that point, a hundred percent  
5 across-the-board, anything with a computer.

6 Even in -- in Dr. Halderman's report  
7 itself, he says you can do things to the  
8 scanners, which is part of your relief.

9 So basically, any -- All physical  
10 security is reliant upon human beings of good  
11 faith following their oath of office. I think  
12 part of the issue we have in all the stuff  
13 around elections is every person involved  
14 believes in their heart of hearts they are  
15 saving American democracy from the bad guys on  
16 the other side, and that's what they all believe  
17 across-the-board.

18 There are those of us who actually --  
19 actually have to run elections -- the county  
20 elections workers, the poll workers, the  
21 secretaries of state, the elections directors,  
22 the poll managers, the boards of elections that  
23 are stuck having to actually do things in the  
24 real world to protect the election.

25 And when you have people in that group who

1 violate the law and violate the rules, that's  
2 why we have criminal investigation right now;  
3 and it is wrong; and like I said, I think Misty  
4 Hampton now will act as a cautionary tale to  
5 those who will -- who think that maybe I can get  
6 around the system and prove that it's not doing  
7 what it supposed to be doing.

8 Q. (By Mr. Cross) You keep talking about  
9 Misty Hampton. I mean, let's be clear. It wasn't  
10 just Miss Hampton. It was Eric Chaney. It was Cathy  
11 Latham. It was Ed Voyles. There were a number of  
12 folks that were part of this.

13 A. And every single one of them believe  
14 they're saving American democracy. I mean, that's  
15 the problem motivation on this is it's okay to  
16 violate my oath, because I'm doing it for the right  
17 reason. It's okay to run to the press with things.  
18 I'm doing it for the right reason. It's just a  
19 because they believe in their hearts of hearts doing  
20 the right thing.

21 My point is us as election administrators  
22 are stuck dealing with the fallout from those things,  
23 and you can never -- if -- If laws always worked a  
24 hundred percent of the time, there'd be no murders.  
25 You know, there's --

C E R T I F I C A T E

STATE OF GEORGIA:

COUNTY OF FULTON:

I hereby certify the foregoing transcript was taken down, as stated in the caption, and the questions and answers thereto were reduced to typewriting under my direction; that the foregoing pages 1 through 434 represent a true, complete, and correct transcript of the evidence given upon said hearing, and I further certify that I am not of kin or counsel to the parties in the case; am not in the regular employ of counsel for any of said parties; nor am I in anywise interested in the result of said case.

This, the 17th day of October, 2022.

S. JULIE FRIEDMAN, CCR-B-1476